UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/980,768	11/15/2001	Jack M. Birnbaum	GIC-575	7511

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EXAMINER
NGUYEN, VAN H

ART UNIT	PAPER NUMBER
2126	

DATE MAILED: 09/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/980,768	BIRNBAUM ET AL.
	Examiner	Art Unit	
	VAN H NGUYEN	2126	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>26 July 2004</u>.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-89</u> is/are pending in the application.
    4a) Of the above claim(s) <u>27-87</u> is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) <u>1-26, 88, and 89</u> is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
        1.☐ Certified copies of the priority documents have been received.
        2.☐ Certified copies of the priority documents have been received in Application No. _____.
        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
            application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
     Paper No(s)/Mail Date _____.
4)☐ Interview Summary (PTO-413)
     Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application (PTO-152)
6)☐ Other: _____.

DETAILED ACTION

1.   Claims 1-26 and 88-89 are presented for examination.

Claim Rejections - 35 USC § 112

2.   The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3.   Claims 1 and 89 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for *programming interface for television settop core system software*, does not reasonably provide enablement for *the software interface enables compatibility between the core system software and different middleware*. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to *make and use* the invention commensurate in scope with these claims. The newly added limitations *"the software interface enables compatibility between the core system software and different middleware"* (to independent claims 1 and 89) are merely stated in the background of the invention (page 1, lines 7-10; and page 2, line 32 - page 3, line 26) as pointed out by Applicant in the remarks filed July 26, 2004, and are not further provided information to describe how *the software interface enables compatibility between the core system software and different middleware* in the detailed description of the invention.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth
> in section 102 of this title, if the differences between the subject matter sought to be patented and the prior
> art are such that the subject matter as a whole would have been obvious at the time the invention was made
> to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be
> negatived by the manner in which the invention was made

> This application currently names joint inventors. In considering patentability of the
> claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the
> various claims was commonly owned at the time any inventions covered therein were
> made absent any evidence to the contrary. Applicant is advised of the obligation under
> 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not
> commonly owned at the time a later invention was made in order for the examiner to
> consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g)
> prior art under 35 U.S.C. 103(a).

5.   Claims 1, 2, 16, 88, and 89 are rejected under 35 U.S.C. 103(a) as being unpatentable

over **Applicant Admitted Prior Art** (APA) in view of **Evain** *"The Multimedia Home Platform"*

EBU Technical Review - Spring 1998- pp.4-10.

6.   As to claim 1, APA teaches the invention substantially including an interface (page 1,

line 29) to core system software (page 1, lines 28-29) in a user terminal (page 1, line 27),

comprising:

        a computer readable medium having computer program code; and means for executing

the computer program code (page 1, lines 27-29) to provide at least one software interface

between middleware (page 1, line 29) that mediates (page 2, lines 4-8) between an application

program (page 1, line 29 and page 2, lines 4-8) and the score system software (page 1, lines 28-29 and page 2, lines 1-2); the software interface enabling the application program to access a function of the terminal provided by the core system software via the middleware (page 1, lines 28-29 and page 2, lines 16-23).

While APA teaches the middleware is provided as the software interface mediating between the OS software (core system software) and the device drivers (applications) so the core system software can talk to the applications, APA does not specifically teach enabling compatibility between the core system software and different middleware.

Evain teaches enabling compatibility between the core system software and different middleware (page 7, third column, lines 25-36 and page 8, first column, lines 25-44).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Evain with APA because Evain's teaching would have provided the capability for interpreting the primitives that embedded in the application objects and activating the functions in the core system software.

7.   As to claim 2, APA teaches acquiring a service (page 2, lines 16-18).

8.   As to claim 16, APA teaches the function of the terminal comprise, among other things, acquiring downstream data from a specified service source (page 2, lines 16-23).

9.   As to claim 88, APA teaches the terminal comprises a television terminal (page 1, lines 27-28 and page 2, lines 17-18).

10.   As to claim 89, it is directed to a method for presenting the system of claim 1, and is similarly rejected under the same rationale.

11.   Claims 3-15, and 17-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Applicant Admitted Prior Art (APA) in view of **Evain** as applied to claim 1 above, and

further in view of Sambar *"PowerTV Operating System"* Release 1.5, October 1998, pp.1-52.

12.   As to claim 3, the combination of APA and Evain does teach acquiring a service, but

does not explicitly teach acquiring a service by tuning a specified virtual channel number or

source ID using a specified service path.

      Sambar teaches acquiring a service by tuning a specified virtual channel number or

source ID using a specified service path *(page 47, lines 14-22)*.

      It would have been obvious to a person of ordinary skill in the art at the time the

invention was made to combine the teachings of Sambar with APA as modified by Evain

because Sambar's teaching would have provided the capability for allowing the service providers

to provide the services to the appropriate user.

13.   As to claim 4, the combination of APA and Evain does not explicitly teach determining

the status of a service.

      Sambar teaches determining the status of a service *(page 49, lines 5-11)*.

      It would have been obvious to a person of ordinary skill in the art at the time the

invention was made to combine the teachings of Sambar with APA as modified by Evain

because Sambar's teaching would have provided the capability for monitoring the delivering of

the services and ensuring the services are delivered to the user.

14.   As to claim 5, the combination of APA and Evain does not explicitly teach requesting

status information regarding a currently-tuned primary service on a specified service path

Sambar teaches requesting status information regarding a currently-tuned primary service on a specified service path *(page 49, lines 8-26)*.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Sambar with APA as modified by Evain because Sambar's teaching would have provided the capability for allowing the service providers to provide the right service to the user.

15.   As to claim 6, the combination of APA and Evain does not explicitly teach registering a client for unsolicited service status updates for a currently tuned primary service on a specified service path.

Sambar teaches registering a client for unsolicited service status updates for a currently tuned primary service on a specified service path *(page 47, lines 14-22)*.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Sambar with APA as modified by Evain because Sambar's teaching would have provided the capability for allowing the service providers to provide the right service to the user.

16.   As to claim 7, the combination of APA and Evain does not explicitly teach canceling a registration for service status updates that was previously set up.

Sambar teaches canceling a registration for service status updates that was previously set up *(page 47, lines 20-22)*.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Sambar with APA as modified by Evain

because Sambar's teaching would have provided the capability for allowing the service providers

to provide the right service to the user.

17.   As to claim 8, the combination of APA and Evain does not explicitly teach obtaining a

summary of current Virtual Channel Table information for all defined virtual channels.

        Sambar teaches obtaining a summary of current Virtual Channel Table information for all

defined virtual channels *(page 48, lines 1- 6)*.

        It would have been obvious to a person of ordinary skill in the art at the time the

invention was made to combine the teachings of Sambar with APA as modified by Evain

because Sambar's teaching would have provided the capability for distributing the service

information to the user.

18.   As to claim 9, the combination of APA and Evain does not explicitly teach obtaining a

summary of current Virtual Channel Table information and characteristics for all defined

DOCSIS downstream channel.

        Sambar teaches obtaining a summary of current Virtual Channel Table information and

characteristics for all defined DOCSIS downstream channel *(page 48, lines 1-27)*.

        It would have been obvious to a person of ordinary skill in the art at the time the

invention was made to combine the teachings of Sambar with APA as modified by Evain

because Sambar's teaching would have provided the capability distributing the service

information to the user.

19.   As to claim 10, the combination of APA and Evain does not explicitly teach adding a

service component of a specified type to a primary service on a specified service path.

Sambar teaches adding a service component of a specified type to a primary service on a specified service path *(page 47, lines 9-13)*.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Sambar with APA as modified by Evain because Sambar's teaching would have provided the capability for allowing the service providers to provide the services to the user.

20.   As to claim 11, the combination of APA and Evain does not explicitly teach deselecting a specified component from a primary service on a specified service path.

Sambar teaches deselecting a specified component from a primary service on a specified service path *(page 49, lines 8-21)*.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Sambar with APA as modified by Evain because Sambar's teaching would have provided the capability for controlling the service by the user.

21.   As to claim 12, the combination of APA and Evain does not explicitly teach selecting a service component that carries particular multicast datagrams.

Sambar teaches selecting a service component that carries particular multicast datagrams *(page507, lines 1-7)*.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Sambar with APA as modified by Evain because Sambar's teaching would have provided the capability for allowing the service providers to provide the services to the appropriate user.

22.   As to claim 13, the combination of APA and Evain does not explicitly teach extracting

datagram fragments from datagram sections being carried on one or more elementary PID stream

components.

Sambar teaches extracting datagram fragments from datagram sections being carried on

one or more elementary PID stream components *(page 50, lines 17-29)*.

It would have been obvious to a person of ordinary skill in the art at the time the

invention was made to combine the teachings of Sambar with APA as modified by Evain

because Sambar's teaching would have provided the capability for allowing the service providers

to provide the services to the appropriate user.

23.   As to claim 14, the combination of APA and Evain does not explicitly teach deselecting a

specified stream component that was previously selected

Sambar teaches deselecting a specified stream component that was previously selected

(page 49, lines 8-21).

It would have been obvious to a person of ordinary skill in the art at the time the

invention was made to combine the teachings of Sambar with APA as modified by Evain

because Sambar's teaching would have provided the capability for controlling the service by the

user.

24.   As to claim 15, the combination of APA and Evain does not explicitly teach requesting

message from a text or data-service component that was previously selected.

Sambar teaches requesting message from a text or data-service component that was

previously selected *(page 46, lines 19-24)*.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Sambar with APA as modified by Evain because Sambar's teaching would have provided the capability for facilitating the communications between the user terminal, the device drivers, and the OS software.

25.   As to claim 17, the combination of APA and Evain does not explicitly teach receiving data or text from a specified background service connection that was previously acquired.

Sambar teaches receiving data or text from a specified background service connection that was previously acquired *(page 48, lines 1-3).*

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Sambar with APA as modified by Evain because Sambar's teaching would have provided the capability for facilitating the deliver of the requested services to the user.

26.   As to claim 18, the combination of APA and Evain does not explicitly teach obtaining at least one virtual channel number associated with a specified source identifier.

Sambar teaches obtaining at least one virtual channel number associated with a specified source identifier *(page 48, lines 1-6).*

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Sambar with APA as modified by Evain because Sambar's teaching would have provided the capability for identifying the services requested by the user.

27.   As to claim 19, the combination of APA and Evain does not explicitly teach obtaining a source identifier associated with a specified virtual channel number.

Sambar teaches obtaining a source identifier associated with a specified virtual channel number *(page 48, lines 13-18).*

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Sambar with APA as modified by Evain because Sambar's teaching would have provided the capability for identifying the services requested by the user.

28.   As to claim 20, the combination of APA and Evain does not explicitly teach obtaining a list of pending changes to a Virtual Channel Table.

Sambar teaches obtaining a list of pending changes to a Virtual Channel Table *(page 47, lines 14-28).*

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Sambar with APA as modified by Evain because Sambar's teaching would have provided the capability for monitoring the requests for services by the user.

29.   As to claim 21, the combination of APA and Evain does not explicitly teach obtaining a Defined Channel Bit Map for a specified channel type that represents currently defined virtual channels/services.

Sambar teaches obtaining a Defined Channel Bit Map for a specified channel type that represents currently defined virtual channels/services *(page 48, lines 1-21).*

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Sambar with APA as modified by Evain

because Sambar's teaching would have provided the capability for identifying the services

requested by the user.

30.   As to claim 22, the combination of APA and Evain does not explicitly teach identifying a

next audio and/or video component for a service.

Sambar teaches identifying a next audio and/or video component for a service *(page 48,*

lines 3-16).

It would have been obvious to a person of ordinary skill in the art at the time the

invention was made to combine the teachings of Sambar with APA as modified by Evain

because Sambar's teaching would have provided the capability for identifying the services

requested by the user and delivering the right services to the user.

31.   As to claim 23, the combination of APA and Evain does not explicitly teach obtaining a

virtual channel number associated with a specified application identifier.

Sambar teaches obtaining a virtual channel number associated with a specified

application identifier *(page 48, lines 1-6).*

It would have been obvious to a person of ordinary skill in the art at the time the

invention was made to combine the teachings of Sambar with APA as modified by Evain

because Sambar's teaching would have provided the capability for identifying the services

requested by the user.

32.   As to claim 24, the combination of APA and Evain does not explicitly teach obtaining an

application identifier associated with a specified Virtual Channel Number.

Sambar teaches obtaining an application identifier associated with a specified Virtual

Channel Number *(page 48, lines 13-18).*

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Sambar with APA as modified by Evain because Sambar's teaching would have provided the capability for identifying the services requested by the user.

33.   As to claim 25, the combination of APA and Evain does not explicitly teach obtaining an application identifier associated with a specified source name string.

Sambar teaches obtaining an application identifier associated with a specified source name string *(page 48, lines 22-27)*.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Sambar with APA as modified by Evain because Sambar's teaching would have provided the capability for identifying the services requested by the user.

34.   As to claim 26, the combination of APA and Evain does not explicitly teach obtaining a source name string identifier associated with a specified application ID.

Sambar teaches obtaining a source name string identifier associated with a specified application ID *(page 48, lines 25-27)*.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Sambar with APA as modified by Evain because Sambar's teaching would have provided the capability for identifying the services requested by the user.

Response to Arguments

35.   Applicant's arguments filed July 26, 2004 have been considered but are moot in view of

the new ground(s) of rejection.

Conclusion

36.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to VAN H. NGUYEN whose telephone number is (703) 306-5971.

After mid-October, 2004, the examiner can be reached at (571) 272-3765. The examiner can

normally be reached on Monday-Thursday from 8:30AM - 6:00PM. The examiner can also be

reached on alternative Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Meng-Ai An can be reached on (703) 305-9678.

The fax phone number for the organization where this application or proceeding is

assigned is 703-872-9306.

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